



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/523,436	08/15/2005	Nicholas Guy Clifford	DUMME59.001APC	4464

20995 7590 05/05/2008  
KNOBBE MARTENS OLSON & BEAR LLP  
2040 MAIN STREET  
FOURTEENTH FLOOR  
IRVINE, CA 92614

EXAMINER
----------

CHAMBERS, MICHAEL S

ART UNIT	PAPER NUMBER
----------	--------------

3711

NOTIFICATION DATE	DELIVERY MODE
-------------------	---------------

05/05/2008

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

jcartee@kmob.com  
eOAPilot@kmob.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/523,436	<b>Applicant(s)</b> CLIFFORD, NICHOLAS GUY	
	<b>Examiner</b> MIKE CHAMBERS	<b>Art Unit</b> 3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 January 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-21 is/are pending in the application.
- 4a) Of the above claim(s) 6 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-5,7-10 and 13 is/are rejected.
- 7) ☒ Claim(s) 11,12 and 14-21 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>1/28/05</u>   | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

***Election/Restrictions***

Applicant's election without traverse of claims 1,3-5,7-21 is acknowledged. Claim 6 is withdrawn from further consideration, as directed to claims non-elected without traverse, 37CFR1.142.

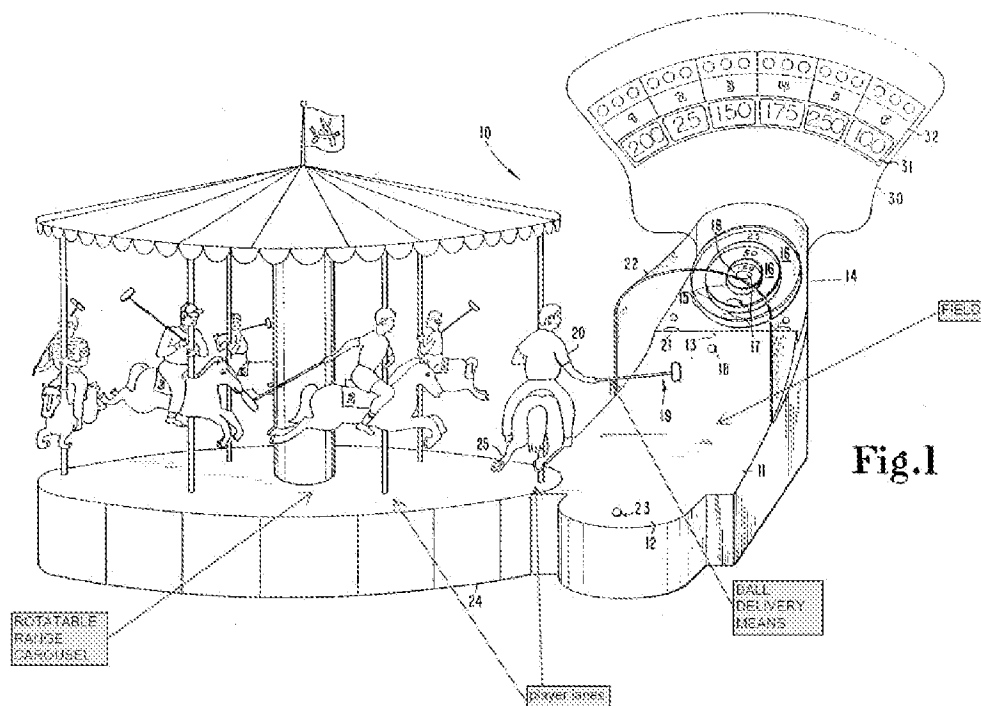
***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,3-4,7-8 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Maio (4767117). Maio discloses a field and a rotatable range carousel wherein, said range carousel is provided with at least one player level wherein the periphery of said player level is divided into a plurality of player lanes, said player lanes provided with ball delivery means and said field provided with ball retrieval means (fig 1).



As to claim 3: Maio discloses a plurality of target structures (fig 1).

As to claim 4: Maio discloses an offset carousel (fig 1).

As to claim 7: Maio discloses two player levels (fig 1).

As to claim 8: Maio discloses a central support column (fig 1).

As to claim 13: Maio discloses a plurality of openings (fig 1).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Maio applied above. The specification provides no unexpected or surprising results in using a downward sloping field; therefore it is considered a design choice. It would have been obvious to one of ordinary skill in the art to have selected any field layout in order to increase marketability of the device.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Maio applied above in view of Official Notice. The specification provides no unexpected or surprising results in using balls of various sizes. Official Notice is taken that the use of various sized balls in the sport art is well known. It would have been obvious to one of ordinary skill in the art to have selected a plurality of ball sizes in order to permit the user to increase their skill by playing with different sized balls.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Maio applied above in view of Official Notice and further in view of Helderma (5743815 ). Helderma discloses an electronically readable ball (fig 1, abstract). It would have been obvious to one of ordinary skill in the art to have utilized the tracking device of xxxx with the apparatus in order to increase user satisfaction by automating the tracking and scoring functions.

### ***Allowable Subject Matter***

Claims 11-12 and 14-21 are objected to as being dependent upon a rejected base claim, but would be allowable if the limitations of claims 7-11 were incorporated into independent claim 1.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mike Chambers whose telephone number is 571-272-4407. The examiner can normally be reached on Mon-Fri 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Kim can be reached on 571-272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Michael Chambers  
Examiner  
Art Unit 3711

April 28, 2008

/Gene Kim/

Supervisory Patent Examiner, Art Unit 3711